

YPSILANTI COMMUNITY UTILITIES AUTHORITY

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YPSILANTI, MICHIGAN 48198-9112
TELEPHONE: (734) 484-4600
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July 7, 2010

Mr. Regis Michrina
Chief Executive Officer
Durable Coating's Corporation
16500 Northville Road
Plymouth, MI 48170

CERTIFIED MAIL

RE: Cease and Desist Order

Dear Mr. Michrina:

Please find enclosed a Cease and Desist Order (Order) issued by the Ypsilanti Community Utilities Authority (YCUA) to Durable Coating's Corporation. **The Order was entered on July 7, 2010 and is in full force and effect upon receipt. Please be advised that within 24 hours of receiving this Order, the Durable Coating's Corporation shall cease discharging process wastewater into the publicly owned sanitary sewer system.**

The YCUA is of the understanding that process wastewater is not currently being discharged to the sanitary sewer. Process wastewater includes any wastewater generated during parts processing, rinsing, and/or cleaning. Process wastewater also includes the documented leaking rainwater into your facility.

The discharge of process wastewater shall not re-commence until such time as the DISCHARGER is able to demonstrate to YCUA that it will comply with the ORDINANCE and the PERMIT conditions.

Thank you in advance for your attention to this matter. Please contact me if you have any questions by phone at 734-484-4600 ext. 121 or by email at pthomas@ycua.org.

Sincerely,



Perry M. Thomas
YCUA Chief Compliance Officer

Enclosure: Cease and Desist Order

CC: Mr. William Bell, Durable Coating's Corporation
Mr. Donald Weaver, Northville Township
Mr. Aaron Sprague, Western Townships Utilities Authority
Mr. Joe Belen, Detroit Water and Sewerage Department
Mr. Luther D. Blackburn, YCUA Industrial Pretreatment Program Supervisor
IPP Departmental File



**YPSILANTI COMMUNITY UTILITIES AUTHORITY
INDUSTRIAL PRETREATMENT PROGRAM**

IN THE MATTER OF:

CEASE AND DESIST ORDER

USER NAME: Durable Coating's Corporation

ADDRESS: 16500 Northville Road
Plymouth, Michigan 48170

PERMIT NO. DC 11-11

LEGAL AUTHORITY

This notice is issued pursuant to the authority vested in the Ypsilanti Community Utilities Authority (YCUA) under Chapter 106, Articles I – IV, Ypsilanti City Code, or Chapter 62, Article I, Ypsilanti Charter Township Code, or equivalent local ordinance, commonly referred to as the "Sewer Use Ordinance," (ORDINANCE), applicable federal and state laws and regulations, a Delegation Agreement (if applicable), and the User's wastewater discharge permit.

FINDINGS

1. Durable Coating Corp. (DISCHARGER) discharges nondomestic wastewater containing pollutants into the sewer system and treatment works of the YCUA or into a sewer system that discharges into the YCUA sewer system and treatment works.
2. The DISCHARGER is a "Significant Industrial User," as defined by the ORDINANCE.
3. The DISCHARGER was issued a wastewater discharge permit (PERMIT) on December 1, 2008, which contains limitations on pollutants, monitoring/reporting requirements, and other specific conditions of discharge.
4. Pursuant to the ORDINANCE and the PERMIT, data and information is routinely collected or submitted to determine the compliance status of the DISCHARGER.

5. This data and information shows that the DISCHARGER has violated the PERMIT and/or the ORDINANCE in the following manner:

- 1) Re-occurring exceedance of specified limits.
- 2) Re-occurring improper reporting: failure to notify POTW of permit exceedance.
- 3) Improper reporting: Failure to report changed discharge
- 4) Re-occurring violation of Compliance Order terms and conditions.
- 5) Violation of PERMIT Conditions: Failure to comply with Proper Operation and Maintenance of wastewater pretreatment facility conditions.

ORDER

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Within 24 hours of receiving this Order, the DISCHARGER shall cease discharging process wastewater into the sanitary sewer system. Such discharges shall not re-commence until such time as the DISCHARGER is able to demonstrate to YCUA that it will comply with the ORDINANCE and the PERMIT conditions.
2. The DISCHARGER shall not re-commence discharge of process wastewater to the sanitary sewer until the stipulated penalties incurred under the Compliance Order entered by the YCUA on December 23, 2009 are paid in full.
3. The DISCHARGER maintain all records and files that document process wastewater is being collected and hauled off-site. These records and files shall be made readily available to the YCUA during normal business hours.
3. Failure to comply with this Order may subject the DISCHARGER to termination of the DISCHARGER'S connection to the sanitary sewer that is connected to the YCUA sewer system and treatment works and assessed the costs by YCUA in taking that enforcement action.
3. Failure to comply with this Order shall constitute a violation of the ORDINANCE, the Permit and this Order and subjects the DISCHARGER to escalated enforcement response including, but not limited to, civil assessments, criminal prosecution and/or service termination.
4. This order is entered on July 7, 2010, and shall be effective upon receipt by the DISCHARGER.

Signed: _____

Perry M. Thomas

YCUA Chief Compliance Officer

Copies to: Mr. William Bell, Durable Coating's Corporation
Mr. Donald Weaver, Northville Township
Mr. Aaron Sprague, Western Townships Utilities Authority
Mr. Joe Belen, Detroit Water and Sewerage Department
IPP Departmental File

Durable Coating's Corporation (formerly Protech Coatings, L.L.C.)

Summary of Non-Compliance

May 2006 Violation Notice Letter:

- Failure to report daily average flow or estimated daily flow from process as required in Appendix A of Industrial User Permit # PC 08-07.
- Failure to include certification statement as required by Section D Part 4 Signatory Requirements of the Industrial User Permit # PC 08-07.

December 2006 Site Inspection:

- Facility has not submitted Slug Discharge Management Plan as required by permit and is being non-responsive to such requests.
- Facility unable to document sludge disposal.

May 2007 Notice of Violation:

Pollutant analysis revealed that on **March 21 - 22, 2007 (Self-Monitoring Event)** the DISCHARGER exceeded the following numerical limit(s) of the PERMIT:

- March 21, 2007 (Composite Sample): Level 2 Exceedance of Nickel Daily Limit, analytical result = 3.61 mg/l
- March 21, 2007 (Composite Sample): Level 2 Exceedance of Zinc Daily Limit, analytical result = 4.80 mg/l
- March 22, 2007 (Composite Sample): Level 2 Exceedance of Zinc Daily Limit, analytical result = 3.78 mg/l
- March 2007: Level 2 Exceedance of Nickel Monthly Average Limit, average = 3.61 mg/l
- March 2007: Level 2 Exceedance of Zinc Monthly Average Limit, average = 4.29 mg/l
- The industrial user failed to notify the YCUA within 24 hours of gaining knowledge of the Nickel and Zinc exceedances as required by Part 3, Section C – Automatic Resampling of Industrial User Permit PC 11-08.
- The industrial user failed to submit a five-day follow up report as required by the Plymouth Township Sewer Use Ordinance.

August 2007 Violation Notice Letter:

Improper Reporting – Report late but less than 30 days: The Protech Coating's, LLC June 2007 Self-Monitoring report submittal was received by the YCUA on July 25, 2007. Self-Monitoring reports are due on the 20th of the month following the reporting period as indicated in industrial user permit #PC 11-08.

Facility has failed to submit a Spill/Slug Discharge Control Plan that meets the minimum requirements of 40 CFR 403.8 (f)(2)(V) for notification and reporting to YCUA. Facility must submit a Spill/Slug Discharge Control Plan to the YCUA on or before September 13, 2007 to avoid an escalated enforcement response from the YCUA.

August 2007 Site Inspection:

- According to SM reports, pretreatment operations continually meet permit effluent limits. The pretreatment system does not appear to be well maintained or managed. The facility has not developed an appropriate method for sludge disposal. The two totes that contain sludge appear to contain the same quantity reported from last year's inspection.
- Facility has not submitted a Spill / Slug Discharge Control Plan despite numerous requests from the YCUA.
- Facility needs to develop and maintain a chemical inventory.

October 2007 Sampling Event and Observation of Pretreatment Operations:

The YCUA performed this observation in response to the impression that the facility may not be operating the pretreatment facility properly. The owner/operator of the facility, Mr. Andrew Ilich, does not give the impression to YCUA that he has the necessary time and/or knowledge to efficiently operate the pretreatment system. The facility typically opens and operates during the afternoon hours (2pm – 10pm). Pretreatment operations usually do not begin until after 4pm which makes inspection during normal YCUA hours difficult. The YCUA has also had significant difficulty in corresponding with Mr. Ilich, as we are currently requiring the development of an ACO for procedural shortcomings.

- Large plastic totes (2) located in pretreatment area contain waste (sludge) generated during reclamation of the zinc-phosphate solution. The volume of material has not significantly changed since YCUA's annual inspection in 2006.
- YCUA found 3-55 gallon drums of material not previously reported during the 2006 and 2007 inspections. Mr. Ilich claimed the drums contained mainly sludge. YCUA had him remove the covers on two drums and both were full of liquid material.
- YCUA inquired to Mr. Ilich why the mixers in the pH adjustment tanks were not running and he proceeded to turn them on. They did not appear to be in good working condition (very noisy and significantly rusted). The mixers stirred up the tank contents significantly. The effluent went from fairly clear to very turbid in a short period of time.
- The facility did not have a drum of sulfuric acid hooked up for lowering the pH in tank number #1. Failure to lower the pH is probably causing the facility difficulty in performing hydroxide precipitation due to the presence of chelating agents and residual cleaners that are not being properly broken down.
- The facility's two (2) filter presses appeared do not appear to be operable.
- Abruptly at 5pm, Mr. Ilich indicated that he had to respond/visit a customer and had to shut off the pretreatment system since he was leaving. The YCUA had detailed conversations with Mr. Ilich regarding the visit and requested that he be available during an entire shift of processing.
- Analytical results obtained from the sampling event indicate compliance with the permit and SUO.

September 2007 Order to Show Cause Issued:

The DISCHARGER has violated the ORDINANCE and/or PERMIT in the following manner:

Reoccurring Lateness or Failure to Submit Reports:

Notice of Violation issued on May 15, 2007: The industrial user failed to submit a five-day follow up report for the Nickel and Zinc exceedances (March 21-22, 2007) as required by the Plymouth Township Sewer Use Ordinance.

Violation Notice Letter issued on August 14, 2007: The Protech Coating's, LLC June 2007 Self-Monitoring report submittal was received by the YCUA on July 25, 2007. Self-Monitoring reports are due on the 20th of the month following the reporting period as indicated in industrial user permit #PC 11-08.

Facility has failed to submit a Spill/Slug Discharge Control Plan that meets the minimum requirements of 40 CFR 403.8 (f)(2)(V) for notification and reporting to YCUA. The plan was required to be submitted to YCUA on or before July 20, 2007 in response to the 2006 Annual Inspection. Upon failure to submit this plan, the YCUA issued the Violation Notice Letter on August 14, 2007 that additionally requested the submittal on or before September 13, 2007. The YCUA has not received the plan as of the date of this Order.

October 2007 Request to enter into an ACO issued by the YCUA:

- Developed ACO contained various requirements regarding administrative procedures, sludge management, and development of an operation manual for pretreatment operations.
- Facility did not respond to initial ACO development. YCUA re-issued ACO in January 2008. Mr. Ilich signed ACO on 1/15/08.

January 2008 Notice of Violation:

- Failure to Self-Monitor Correctly: Failure to monitor all pollutants required by permit. The DISCHARGER failed to sample and analyze for Total Toxic Organics (per 40 CFR Part 433.11(e)) as required by the PERMIT during the July through December 2007 self-monitoring period (Semi-Annual).

March 2008 YCUA issued Administrative Assessment for Non-Compliance w/ ACO:

- An administrative assessment of \$2,000.00 was levied as a result of the violation of Section III, requirement C of the Administrative Consent Order (ACO) entered on January 15, 2008. Protech Coating's L.L.C. failed to submit a written response to the Notice of Violation issued by the YCUA on January 29, 2008 on or before February 28, 2008.
- An appeal hearing was held on March 27, 2008 with Protech Coating's L.L.C and the Ypsilanti Community Utilities Authority (YCUA) in response to an appeal of the monetary assessment levied by the YCUA on March 13, 2008. The YCUA gave consideration to the information provided by Protech Coating's L.L.C during the hearing and recognizes the recent improvement made with the acquisition of a consultant to assist with the administration of their industrial user permit.
- YCUA's disposition of the appeal hearing was to put the \$2,000.00 assessment in abeyance until March 27, 2009. The abeyance was held until this date pending full compliance with the ACO.

March 2008 Notice of Violation:

Improper Reporting: The DISCHARGER submitted the January 2008 self-monitoring result for phosphorus on March 4, 2008. The phosphorus result was required to be submitted to the YCUA on or before February 20, 2008 as required by the PERMIT.

Re-occurring Improper Reporting within the last 12 months:

The Protech Coating's, LLC June 2007 Self-Monitoring report submittal was received by the YCUA on July 25, 2007. Self-Monitoring reports are due on the 20th of the month following the reporting period as indicated in industrial user permit #PC 11-08.

June 2008 Notice of Violation:

Pollutant analysis revealed that on May 13-14, 2008 (Control Authority Monitoring Event) the DISCHARGER exceeded the following numerical limit(s) of the PERMIT:

Level 2 Exceedance of Chemical Oxygen Demand, analytical result = 964 mg/l (Composite Sample)

December 2008 Site Inspection:

- Facility has not provided YCUA documentation that proper sludge disposal has occurred.
- Facility recently changed businesses names from Protech Coatings L.L.C. to Durable Coatings Corporation.
- Mr. Ilich indicated that various equipment cleanings would be taking place during the holiday shutdown. Mr. Ilich was informed that proper manifesting should take place for all material hauled off-site and YCUA would be requesting a copy of such documentation.
- Upon inspection, the pretreatment facility does not appear to be operated and maintained properly. Observations included: Electrical connections on the clarifier sludge pump were exposed; Mixer on pH adjustment tank #2 would not run, possibly seized up; Lamella clarifier contained a significant sludge buildup;

Filter press was not operational; Sludge inlet and filtrate lines were not connected and electrical and pneumatic connections were not in place.

April 2009 Order to Show Cause Issued:

The DISCHARGER has violated the ORDINANCE and/or PERMIT in the following manner:

Reoccurring Exceedances of the Specified Monthly Average Limit for Zinc within a 12-month period:

- Level 2 Exceedance of Zinc Monthly Average Limit for February 2009, result = 1.85 mg/l
- Level 2 Exceedance of Zinc Monthly Average Limit for March 2009, result = 2.54 mg/l

Improper Reporting:

- Failure to submit the January and February 2009 wastewater flows on or before April 20, 2009 for the 1st Quarter Self-monitoring Period.
- Failure to notify the Control Authority (YCUA) within 24 hours of gaining knowledge of the February 2009 exceedance of the Zinc Monthly Average Limit.
- Failure to notify the Control Authority (YCUA) within 24 hours of gaining knowledge of the March 2009 exceedance of the Zinc Monthly Average Limit.

June 2009 Order to Show Cause Re-Issued:

An Order to Show Cause (OSC) hearing with the responsible corporate officials of Durable Coatings Corporation was entered on Tuesday, April 28, 2009 by the YCUA. The OSC hearing was scheduled for Tuesday, May 12, 2009 at 10:00 A.M. On Tuesday, May 12, 2009 at 10:00 A.M. all attendees were at YCUA except for the representatives from Durable Coatings Corporation. The YCUA issued the OSC Hearing in response to improper reporting procedures and exceedances of specified limits with industrial user permit #DC 11-11 and the Northville Township Sewer Use Ordinance. The no show, no call response from the representative(s) of Durable Coatings Corporation is consistent with YCUA's personnel experiences of unresponsiveness from Durable Coating personnel at times and therefore the reason for the Order to Show Cause Hearing. The OSC hearing was rescheduled for Wednesday, July 1, 2009 at 10:00 A.M. in the YCUA Administration Building.

August 2009 Notification of Significant Non-Compliance:

Durable Coating's Corporation was notified that it is in Significant Non-Compliance (SNC) according to Title 40 Code of Federal Regulations (CFR) Part 403.8(D)(viii)(B). Durable Coating's Corporation is in SNC for violating the Zinc Monthly Average Limit during the periods of October 2008 – March 2009 and January – June 2009. Durable Coating's Corporation is in SNC because 33% or more of the data collected for this parameter meet or exceed the Technical Review Criteria (TRC). The TRC for a parameter is the product of the applicable limit multiplied by a factor of 1.2.

August 2009 Request to enter into an ACO issued by the YCUA:

- Developed ACO contained various requirements regarding administrative procedures and compliance with effluent limits.
- Facility did not respond to initial ACO development.

October 2009 Request to enter into an ACO re-issued by the YCUA:

YCUA issued correspondence regarding lack of response to the Administrative Consent Order that was forwarded via certified mail on August 19, 2009. The YCUA Industrial Pretreatment Program Department agreed to utilize an Administrative Consent Order (ACO) in an attempt to resolve the noncompliance that Durable Coating Corporation was experiencing. Failure to respond in writing to the Administrative Consent Order by the close of business on Friday October 30, 2009 will result in YCUA issuing a Compliance Order.

November 2009 Violation Notice Letter:

Improper Reporting: Durable Coating's 3rd Quarter Self-Monitoring Report as submitted on October 20, 2009 was improperly certified by Mr. Andrew Ilich. Durable Coating's Corporation was notified on July 1, 2009 during an Order to Show Cause Hearing with the YCUA that Mr. Andrew Ilich and Ms. Megan Sedghi were not considered designated signatories. Therefore these individuals would not be approved to sign any reports submitted to the YCUA unless proper authorization as outlined in the permit was provided.

December 2009 Compliance Order Issued:

- Developed CO contains various requirements regarding administrative procedures and compliance with effluent limits.
- Facility did not respond to ACO development requests.

December 2009 Site Inspection:

- Mr. Ilich has not provided YCUA documentation that any sludge has been shipped off-site for disposal. The facility's ability to properly manage sludge disposal continues to be a concern to the YCUA.
- Upon inspection, the pretreatment facility continues to appear minimally maintained and operated. The lamella clarifier contained a significant sludge buildup and the filter press was not operational. Requested that Mr. Ilich improve the preventative maintenance of the pretreatment facility.
- Discussed conditions of Compliance Order that was hand delivered to Mr. Ilich during the inspection. A copy was also forwarded to Mr. Michrina. Facility recently violated Compliance Order by not notifying the YCUA of the 2009 November Monthly Average exceedance for zinc.
- The YCUA continues to request that facility improve the operation and maintenance of the pretreatment facility. The YCUA requests that facility focus on improved sludge management, sludge buildup in the lamella clarifier, and the operation of the filter press. The YCUA will re-inspect facility to verify that improvements in these areas are being made.

February 2010 YCUA issued Administrative Assessment for Non-Compliance w/ CO:

- The YCUA issued a \$1,000.00 assessment as a result of a violation of Section 2, Part B of the Compliance Order entered on December 22, 2009. Durable Coating's Corporation failed to notify the YCUA within 24 hours of gaining knowledge of a monthly average exceedance for the zinc parameter during the November 2009 monitoring period. The notification is a requirement of the ACO, Industrial User Permit #DC 11-11, and the Northville Township Sewer Use Ordinance (SUO).
- The enforcement response for the zinc monthly average limit exceedance is being addressed through the implementation of Section 3, Part F of the ACO. Durable Coating's Corporation previously violated the monthly average limit for zinc during the February, March, and April 2009 monitoring periods. Continued failure to comply with permit and SUO limits will result in a violation of Section 3, Part F and the ACO and the issuance of stipulated penalties by the YCUA.
- Payment for stipulated penalty has not been received as of June 22, 2010.

May 2010 YCUA issued Administrative Assessment for Non-Compliance w/ CO:

- The YCUA issued an administrative assessment invoice for \$4,000.00 against Durable Coating's Corporation. The assessment is a result of violations of Section 2, Part B and Section 3, Part E of the Administrative Compliance Order (ACO) entered on December 22, 2009. Durable Coating's Corporation failed to notify the YCUA within 24 hours of gaining knowledge and file required follow up reporting for a monthly average exceedance of the zinc parameter during the March 2010 monitoring period. Durable Coating's Corporation also failed to properly report wastewater flow in accordance with Industrial User Permit #DC 11-11.
- The enforcement response for the zinc monthly average limit exceedance is being addressed through the implementation of Section 3, Part F of the ACO. Durable Coating's Corporation previously violated the monthly average limit for zinc during the November 2009 monitoring period. Continued failure to comply with permit and SUO limits will result in a violation of Section 3, Part F and the ACO and the issuance of stipulated penalties by the YCUA
- Payment for stipulated penalty has not been received as of June 22, 2010.

May 2010 Correspondence from University Laboratories

- The YCUA received notification from Megan Sedghi of University Laboratories (independent laboratory for Durable Coatings Corporation) that Mr. Andrew Ilich is no longer associated with Durable Coatings Corporation. Ms. Sedghi indicated that William Teasal would be taking over for Mr. Ilich. Megan was notified that Mr. Michrina is required to submit signed correspondence if a new signatory is being established.
- The YCUA received an emailed letter on 5/21 from Mr. Michrina that Mr. Ilich was no longer with the company and Mr. Teasal would be working with the company to resolve compliance issues.
- The letter also provided notification that the April self-monitoring did not occur.
- The letter also indicated that due to low production, the wastewater was being stored in new tanks that have been brought on-site.

June 2010 Notice of Violation:

Pollutant analysis revealed that during the May 4-5, 2010 (YCUA Control Authority Monitoring Event) the DISCHARGER exceeded the following numerical limit(s) of the PERMIT:

Level 2 Exceedance of Chemical Oxygen Demand limit, analytical result (Composite Sample) = 1829 mg/l.

June 2010 Sampling Events:

The YCUA has visited the Durable Coating's facility a couple of times in the previous 2 weeks and has not been able to conduct a monitoring event. During the initial visit (6/9/10), the YCUA technicians were told the wastewater was being held and nothing would be discharged until the following week. The technicians decided to set a sampler in a downstream manhole where very little wastewater enters the system other than from the Durable Coating's facility. The initial results indicate higher than normal levels of pollutants. Therefore it is our concern that a discharge did occur and the YCUA was provided incorrect information.

A YCUA technician tried to conduct another sampling event on 6/16 and could not find anyone within the facility. When we tried calling Mr. Michrina's phone number, it indicated the voice mailbox was full.

June 2010 Site Visit

- Established new contact for company, Bill Bell: 248-505-5513. Mr. Michrina who during his last correspondence listed William Teasal as Andy Ilich's replacement has not verified new contact. Mr. Teasal has notified YCUA that he is not being paid by Durable and has no responsibilities with the company.
- I have tried to contact Mr. Michrina by phone but he does not answer and his voice mail is full. He also does not respond to email.
- Mr. Bell would like permit and recent enforcement documents faxed to him at 248-596-1102.
- Mr. Bell indicated he was trying to get things in order at the plant and Mr. Michrina was in Georgia running another plant.
- Mr. Bell gave differing information regarding whether they have been discharging to the sewer, for the most part was very evasive.
- Two large tanks are in the production area. One of them is hooked up and was supposedly full although no ladder was available to verify. Mr. Bell said they were using the tank but the valving on the line was closed and the discharge was set up to go to the sanitary.
- A mix of rain water and paint residue was all over the production and wastewater area floors up to approx. 3". When asked about this Mr. Bell said they were occasionally removing it and discharging to the sewer because the roof leaks. I told him this was an unacceptable practice without treatment and metering. He was also informed this may have been the cause of the recent COD violation.
- Mr. Bell requested that pictures not be taken during the inspection.
- No production was occurring, but a few containers were on the floor that needed to be coated. Mr. Bell said they were not planning on running anytime soon, but during a phone conversation he had during the inspection he seemed to be discussing the running tomorrow.
- The pretreatment area has no lighting, which makes inspection impossible without a flashlight.
- All 4 holding tanks were full.

- The lamella clarifier appeared to be full of sludge.
 - The mixers appear to be inoperable.
 - The acid, caustic, and coagulant used for treatment were not hooked up nor did any appear to be in stock.
 - The filter press appears inoperable and was not hooked up.
 - The sludge-settling tank appeared empty.
 - pH monitors were not displaying and Mr. Bell had no idea how to check their operation.
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- **It is YCUA's determination that the plant is not operational and therefore unable to meet permit limits to discharge.**
 - **It is YCUA's determination that Mr. Bell does currently possess the knowledge to operate the pretreatment system correctly and does not have the resources to maintain the equipment.**
 - **Scheduled IS technicians to sample downstream sewer for remainder of week.**